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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,043	08/05/2003	Donald E. Weder	8403.956	4660
30589	7590	06/18/2004	EXAMINER	
DUNLAP, CODDING & ROGERS P.C. PO BOX 16370 OKLAHOMA CITY, OK 73113			GELLNER, JEFFREY L	
			ART UNIT	PAPER NUMBER
			3643	
DATE MAILED: 06/18/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application N .

10/635,043

Applicant(s)

WEDER ET AL.

Examiner

Jeffrey L. Gellner

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 August 2003.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-24 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 16 Feb. 2004.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

Acknowledgement is made of Applicant's 1449s received 5 August 2003 and 16 February 2004.

#### ***Claim Rejections - 35 USC §103***

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 and 17 are rejected under 35 U.S.C. §103(a) as being unpatentable over Newport (AU 42319/78; 1<sup>st</sup> document listed in foreign patent section of Applicant's 1<sup>st</sup> 1449) in view of Landau (US 5,235,782; 10<sup>th</sup> document on page 5 of Applicant's 1<sup>st</sup> 1449).

As to Claim 1, Newport discloses a floral sleeve (Figs. 1 and 2) comprising a body having an upper end, a lower end, a first panel having a first upper edge and a first lower edge, a second panel having a second upper edge and a second lower edge, an interior space, the body having a left side edge sealed from the upper end to the lower end (line 7 of page 3), a right side edge sealed from the upper end to the lower end (line 7 of page 3), the first panel and the second panel together forming a sidewall in the body, the body tapered (Figs. 1 and 2) from the upper end to the lower end, and initially having a flattened condition (Figs. 1 and 2), and wherein when the body is opened from the flattened condition to an opened condition for containing a pot, the bottom having a lower bottom surface, a left side bottom surface extending upwardly from the

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lower bottom surface to the left side edge, and a right side bottom surface extending upwardly from the lower bottom surface to the right side edge; and, a pot disposed within the interior space of the cover (Fig. 2). Not disclosed is a gusset extending inwardly with an inner fold extending from the left to right sides. Landau, however, discloses a gusset (24 of Fig. 1) extending inwardly with an inner fold extending from the left to right sides. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sleeve of Newport by adding a gusset as disclosed by Landau so as to allow the sleeve to accommodate larger pots. The sleeve of Newport as modified by Landau inherently performs the method steps recited in Claim 1.

As to Claim 2, Newport as modified by Landau further disclose an upper edge that is horizontal (see Fig. 1 of Newport).

As to Claim 3, the limitations of Claim 1 are disclosed as described above. Not disclosed is the upper edge being angular. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the sleeve of Newport as modified by Landau by making the upper edge angular so as to meet consumer demand.

As to Claim 4, Newport as modified by Landau further disclose an upper edge which is non-linear (see Fig. 1 of Landau).

As to Claim 5, Newport as modified by Landau further disclose a detachable upper portion via a detaching element (see Newport at Fig. 1).

As to Claim 6, Newport as modified by Landau further disclose an upper portion adapted to support the body from a support device (46 of Landau).

As to Claim 7, Newport as modified by Landau further disclose the upper portion sized to surround and encompass a floral grouping in a pot (Fig. 2 of Newport).

As to Claim 8, Newport as modified by Landau further disclose an upper portion adapted to support the body from a support device (46 of Landau) and the upper portion sized to encompass a floral grouping disposed within a pot (Fig. 2 of Newport).

As to Claim 9, Newport as modified by Landau further disclose perforations (Figs. 1 and 2 of Newport).

As to Claim 17, Newport discloses a floral sleeve (Figs. 1 and 2) comprising a body having an upper end, a lower end, a first panel having a first upper edge and a first lower edge, a second panel having a second upper edge and a second lower edge, an interior space, the body having a left side edge sealed from the upper end to the lower end (line 7 of page 3), a right side edge sealed from the upper end to the lower end (line 7 of page 3), the first panel and the second panel together forming a sidewall in the body, the body tapered (Figs. 1 and 2) from the upper end to the lower end, and initially having a flattened condition (Figs. 1 and 2), and wherein when the body is opened from the flattened condition to an opened condition for containing a pot, the bottom having a lower bottom surface, a left side bottom surface extending upwardly from the lower bottom surface to the left side edge, and a right side bottom surface extending upwardly from the lower bottom surface to the right side edge; a pot disposed within the interior space of the cover (Fig. 2); and, an upper portion detachable by perforations (Figs. 1 and 2). Newport discloses is a gusset extending inwardly with an inner fold extending from the left to right sides; and, the perforations having a non-linear pattern. Landau, however, discloses a gusset (24 of

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Fig. 1) extending inwardly with an inner fold extending from the left to right sides; and, the perforations (26 of Fig. 1) having a non-linear pattern. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sleeve of Newport by adding a gusset as disclosed by Landau so as to allow the sleeve to accommodate larger pots and the have the perforations with a non-linear edge as disclosed by Landau so as to meet consumer demand. The sleeve of Newport as modified by Landau inherently performs the method steps recited in Claim 17.

Claims 10-12 and 18-20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Newport (AU 42319/78; 1<sup>st</sup> document listed in foreign patent section of Applicant's 1<sup>st</sup> 1449) in view of Landau (US 5,235,782; 10<sup>th</sup> document on page 5 of Applicant's 1<sup>st</sup> 1449) in further view of Benoit (US 4,554,192).

As to Claims 10 and 18, the limitations of Claims 1 and 17 are disclosed as described above. Not disclosed is the floral sleeve in a pad. Benoit, however, discloses a floral sleeve in a pad (col. 5 lines 6-11). It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the sleeve of Newport as modified by Landau by using in a pad as disclosed by Benoit so as to improve the ease of use of the sleeves.

As to Claims 11 and 19, Newport as modified by Landau as further modified by Benoit further disclose the pad being bonded (Benoit at col. 5 lines 6-11).

As to Claims 12 and 20, Newport as modified by Landau as further modified by Benoit further disclose the pad clipped (Benoit at col. 5 lines 6-11).

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Claims 13-16 and 21-24 are rejected under 35 U.S.C. §103(a) as being unpatentable over Newport (AU 42319/78; 1<sup>st</sup> document listed in foreign patent section of Applicant's 1<sup>st</sup> 1449) in view of Landau (US 5,235,782; 10<sup>th</sup> document on page 5 of Applicant's 1<sup>st</sup> 1449) in further view of Sievers (US 1,868,853).

As to Claims 13 and 21, the limitations of Claims 1 and 17 are disclosed as described above. Not disclosed is a securing element disposed about the sleeve. Sievers, however, discloses a securing element (14 of Fig. 1) about a sleeve with a potted plant therein. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the sleeve of Newport as modified by Landau by adding a securing element as disclosed by Sievers so as to meet consumer demand.

As to Claims 14 and 22, Newport as modified by Landau as further modified by Sievers further disclose the securing element as a ribbon (14 of Fig. 1 of Sievers).

As to Claims 15 and 23, the limitations of Claim 13 and 23 are disclosed as described above. Not disclosed is the securing element placed above the upper end of the pot. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the sleeve of Newport as modified by Landau and Sievers by placing the securing element above the pot so as to meet consumer demand.

As to Claims 16 and 24, Newport as modified by Landau as further modified by Sievers further disclose the securing element placed below the upper end of the pot (Fig. 1 of Sievers).

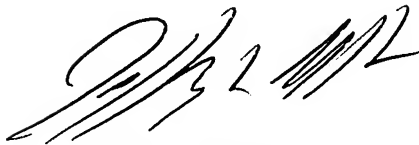
*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Smith discloses in the art a sleeve with a bottom gusset.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jeffrey L. Gellner whose phone number is 703.305.0053. The Examiner can normally be reached Monday through Thursday from 8:30 am to 4:00 pm. The Examiner can also be reached on alternate Fridays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Peter Poon, can be reached at 703.308.2574. The official fax telephone number for the Technology Center where this application or proceeding is assigned is 703.872.9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.



Jeffrey L. Gellner